



Senate

General Assembly

February Session, 2004

File No. 24

Senate Bill No. 49

Senate, March 4, 2004

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING COLLECTIVE BARGAINING FOR STATE MANAGERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 5-270 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 When used in sections 5-270 to 5-280, inclusive:

4 (a) "Employer" means the state of Connecticut, its executive and
5 judicial branches, including, without limitation, any board,
6 department, commission, institution, or agency of such branches or
7 any appropriate unit thereof and any board of trustees of a state-
8 owned or supported college or university and branches thereof, public
9 and quasi-public state corporation, or authority established by state
10 law, or any person or persons designated by the employer to act in its
11 interest in dealing with employees, but [shall] does not include the
12 State Board of Labor Relations or the State Board of Mediation and

13 Arbitration.

14 (b) "Employee" means any employee of an employer, whether or not
15 in the classified service of the employer, except elected or appointed
16 officials other than special deputy sheriffs, board and commission
17 members, [managerial employees] bureau heads and confidential
18 employees.

19 (c) "Professional employee" means: (1) Any employee engaged in
20 work (A) predominantly intellectual and varied in character as
21 opposed to routine mental, manual, mechanical or physical work; (B)
22 involving the consistent exercise of discretion and judgment in its
23 performance; (C) of such a character that the output produced or the
24 result accomplished cannot be standardized in relation to a given time
25 period; (D) requiring knowledge of an advanced type in a field of
26 science or learning customarily acquired by a prolonged course of
27 specialized intellectual instruction and study in an institution of higher
28 learning or a hospital, as distinguished from a general academic
29 education or from an apprenticeship or from training in the
30 performance of routine mental, manual or physical processes; or (2)
31 any employee who has completed the courses of specialized
32 intellectual instruction and study described in subsection (c)(1)(D) and
33 is performing related work under the supervision of a professional
34 person to qualify [himself] to become a professional employee as
35 defined in subsection (c)(1).

36 (d) "Employee organization" means any lawful association, labor
37 organization, federation or council having as a primary purpose the
38 improvement of wages, hours and other conditions of employment
39 among state employees.

40 (e) "Confidential employee" means any public employee who would
41 have access to confidential information used in collective bargaining.

42 (f) "Supervisory employee" means any individual in a position in
43 which the principal functions are characterized by not fewer than two
44 of the following: (1) Performing such management control duties as

45 scheduling, assigning, overseeing and reviewing the work of
46 subordinate employees; (2) performing such duties as are distinct and
47 dissimilar from those performed by the employees supervised; (3)
48 exercising judgment in adjusting grievances, applying other
49 established personnel policies and procedures and in enforcing the
50 provisions of a collective bargaining agreement; and (4) establishing or
51 participating in the establishment of performance standards for
52 subordinate employees and taking corrective measures to implement
53 those standards, provided in connection with any of the foregoing the
54 exercise of such authority is not merely of a routine or clerical nature,
55 but requires the use of independent judgment. [, and such individuals
56 shall be] Such individuals are employees within the meaning of
57 subsection (b) of this section. The above criteria for supervisory
58 positions [shall] does not necessarily apply to police or fire
59 departments.

60 (g) "Managerial employee" means any individual in a position in
61 which the principal functions are characterized by not fewer than two
62 of the following, provided for any position in any unit of the system of
63 higher education, one of such two functions shall be as specified in
64 subdivision (4) of this subsection: (1) Responsibility for direction of a
65 subunit or facility of a major division of an agency or assignment to an
66 agency head's staff; (2) development, implementation and evaluation
67 of goals and objectives consistent with agency mission and policy; (3)
68 participation in the formulation of agency policy; or (4) a major role in
69 the administration of collective bargaining agreements or major
70 personnel decisions, or both, including staffing, hiring, firing,
71 evaluation, promotion and training of employees. Such individuals,
72 other than any individuals who are bureau heads, as defined in
73 subsection (h) of this section, are employees within the meaning of
74 subsection (b) of this section.

75 (h) "Bureau head" means any individual who heads a major division
76 of an agency and reports to the agency head or deputy agency head,
77 provided: (1) The number of bureau heads in any agency shall not
78 exceed the greater of (A) one, or (B) one-half of one per cent of the total

79 number of permanent full-time employees in the agency, rounded to
80 the next lowest whole number, (2) the number of bureau heads in the
81 state executive branch shall not exceed one-half of one per cent of the
82 total number of permanent full-time employees in the branch, rounded
83 to the next lowest whole number, and the number of bureau heads in
84 the state judicial branch shall not exceed one-half of one per cent of the
85 total number of permanent full-time employees in the branch, rounded
86 to the next lowest whole number, and (3) if an agency has more major
87 divisions than the number of bureau heads permitted in the agency by
88 this subsection, the major divisions shall be ranked by the number of
89 permanent full-time employees in each, and any individual heading a
90 major division with a smaller number of permanent full-time
91 employees shall be excluded from being classified as a bureau head
92 before any individual heading a major division with a larger number
93 of full-time employees.

94 Sec. 2. Subsection (b) of section 5-275 of the general statutes, as
95 amended by section 13 of public act 03-19, is repealed and the
96 following is substituted in lieu thereof (*Effective October 1, 2004*):

97 (b) The board shall determine the appropriateness of a unit which
98 shall be the public employer unit or a subdivision [thereof] of the
99 public employer unit. In determining the appropriateness of the unit,
100 the board shall: (1) Take into consideration, but shall not limit
101 consideration to, the following: (A) Public employees must have an
102 identifiable community of interest, and (B) the effects of
103 overfragmentation; (2) not decide that any unit is appropriate if (A)
104 such unit includes both professional and nonprofessional employees,
105 unless a majority of such professional employees vote for inclusion in
106 such unit, or (B) such unit includes both Department of Correction
107 employees at or above the level of lieutenant and Department of
108 Correction employees below the level of lieutenant; (3) decide that a
109 unit is not appropriate if the unit includes both managerial and
110 nonmanagerial employees; (4) take into consideration that when the
111 state is the employer, it will be bargaining on a state-wide basis unless
112 issues involve working conditions peculiar to a given governmental

113 employment locale; [(4)] (5) permit the faculties of (A) The University
114 of Connecticut, (B) the Connecticut State University system, and (C)
115 the state regional vocational-technical schools to each comprise a
116 separate unit, which in each case shall have the right to bargain
117 collectively with their respective boards of trustees or their designated
118 representatives; and [(5)] (6) permit the community college faculty and
119 the technical college faculty as they existed prior to July 1, 1992, to
120 continue to comprise separate units, which in each case shall have the
121 right to bargain collectively with its board of trustees or its designated
122 representative. Nonfaculty professional staff of the above institutions
123 may by mutual agreement be included in such bargaining units, or
124 they may form a separate bargaining unit of their own. This section
125 shall not be deemed to prohibit multiunit bargaining.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>

LAB *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Various	All Appropriated Funds - Cost	Indeterminate	Indeterminate

Municipal Impact: None

Explanation

This bill allows state managers, excluding bureau heads, to bargain collectively. The fiscal impact to the state is indeterminate as any costs associated with this bill would depend on the outcome of collective bargaining negotiations. This bill would impact approximately 2,200 managers in all branches of government.

OLR Bill Analysis

SB 49

AN ACT CONCERNING COLLECTIVE BARGAINING FOR STATE MANAGERS**SUMMARY:**

This bill allows state managers to bargain collectively but continues to bar bureau heads from doing so. It defines a "bureau head" as anyone who heads a major division of an agency and reports to the agency commissioner or deputy commissioner. It establishes mechanisms to limit how many managerial employees can be reclassified as bureau heads.

The bill requires the State Board of Labor Relations to determine a collective bargaining unit is inappropriate if it includes both managerial and nonmanagerial employees.

EFFECTIVE DATE: October 1, 2004

PROTECTIONS AGAINST RECLASSIFICATION

The bill allows an agency to have (1) one bureau head or (2) bureau heads numbering up to 0.5% of its permanent, full-time employees (whichever is greater). This means a department with 200 or fewer permanent, full-time employees can have at most one bureau head.

It bars the Executive and Judicial branches from having bureau heads that number more than 0.5% of the branch's permanent, full-time employees.

It appears that if the number of an agency's major divisions exceeds the number of bureau heads allowed, a major division head who has a greater number of permanent, full-time employees must be designated a bureau head before one who has fewer employees.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Report

Yea 10 Nay 3